App. F. IX-4

**1932.**

( Law )

**File No.** 75-32

*Previous References*
DP89-28-1-S

**Serial Nos.** 1 & 2.

*Later References*

PRESERVED

(21)

# GENERAL AND REVENUE SECRETARIAT

*Serial Nos.* Two -

**Part B for** Sepr 1933

**SUBJECT.**

Re Jurisdiction of Mr C & M. Station Magistrate to try Offences committed on Mysore Rys.

2) 2

The Secy. to Govt —
Mysore Rys.

No. P 1252 dt 12-9-33
Forwards a copy of the Govt. Advocate in the matter

Dr. Abdul Aziz
22-9-33

General and Revenue Secretariat

Law File No. 75 of 1932.

Serial No.

From.

The Agent, Mys. Rys.

No. E7. 25/32 dated 26th nov 1932 stating very often passengers travelling with insufficient tickets are detected by the travelling ticket Examiners of this Ry before reaching the Junction Station, and many of such cases are also detected by the M.S.M. Ry. ticket Checking Staff and that as the M.S.M. Ry have made special arrangements for the Prosecution of passengers before Magte under sec 112 113 of the Ind. Ry. Act it would be more Convenient to get the offending passengers prosecuted thro' the agency of that Ry. and enquiring when such an offence has been Committed in an area within the I class Magte C.M. Stn can be Considered as having jurisdiction

1) Sections 113. 116 of the Mys. Rly. Regns prescribe the Procedure to be adopted for the trial of offences under the Rules. No doubt the offences Committed under sections 94 95 are Continuing offences. No Special arrangements are made in Mysore for the Prosecution of the Rly. offenders. As such it will not be fair to surrender the accused to the C.M. Stn magistrate when the excess Charge is due to the Mys Rys.

Subs for orders

ISD 5/12

2) Forwarded to the Government Advocate for favour of opinion

G.O. No P 7832 dt 16/11/33

Note—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31

16/11/33

File No. of 193 . | General and Revenue Secretariat.

Returned with compliments.

No. Dev 113 32-33 dt 13.2.33

GENERAL SECRETARIAT 14 FEB. 1933 No. Pro.

3) In the first place it is difficult to see why the Mysore Railways should transfer the right to try such cases to the Civil & Military Station Magistrate. We should retain such jurisdiction in ourselves as far as possible.

4) Next - the offences referred to in the Agent's letter are offences under the Mysore Railways Regulation and triable by a Magistrate whose powers are not less than those of a Magistrate of the Second Class. (Sec.115). The place of trial is specified in Section 116 of the Regulation. The offences should therefore be tried ordinarily by our Magistrates.

5) The ruling in 11 Mysore Chief Court Reports p.107 is of importance in this connection. The learned Judges say at page 109 - "There appears to be a misapprehension in the minds of the Magistrates that the Railways in the Mysore State are British Indian Territory and not in the Mysore State. This is, however, a mistake. The Railways have not become British India. They are still in the Mysore State though jurisdiction in them has been ceded to the British Government, who have arranged for the exercise of jurisdiction on them under the Foreign Jurisdiction and Extradition Act, 1879; Notification 507-I, Fort William, dated 6th February 1896, published in the Gazette of India of date the 8th -- February 1896)." This seems to support the position that the Mysore Courts have jurisdiction in such cases.

6) As it would be necessary to examine the position in the light of the wording of the Notification above referred to the file may kindly be returned with a copy of the said Notification.

Government Advocate.
13-2-1933.

3032

3

General and Revenue Secretariat | Law File No. 75 of 1932 | [App. F. III—2

Serial No.

'k'

1) No. 507-1. Fort William dated 6th Feb' 1896 is put up.

Retransmitted with Compliments to refer.

B.O.
for General Secretary.

2. G.O.Rap 27032 of 28/2/33.
Rap 826/32-33.
28.2.33

G.O.Rap 158/32-33
8.4.33

Returned with compliments.

2) The question raised by the Traffic Manager is very complicated and the Notification of 1896 does not help to solve the difficulty. This Notification says that all laws in force in the Civil & Military Station should be deemed to be in force in the Railway area, and that full criminal jurisdiction is ceded to the British Government. The offence referred to by the Traffic Manager is an offence under Section 95 of the Mysore Railways Regulation. Section 116 of the Regulation mentioned the place where the offence is triable. Whether any Notification has been issued under Sec.116 may be ascertained. It is also necessary to examine the correspondence and the agreements between the British Government and Mysore when our Railways were constructed. The file may kindly be sent to me after obtaining the references above mentioned.

GENERAL SECRETARIAT
8 APR. 1933
No. Law

Government Advocate.
8.4.1933

CSN.

Off—
8/4

NOTE—Contn. Sheet.

WD 0246 -GPB—15,000—22-8-32

4

2330
(C)

File No. of 193 . | General and Revenue Secretariat

Dft put up accordingly

TSD 10/4 Mal

Issue & resubmit

BNP
10/4

To,

The Tn Manager

No. P. 5866 dated 11 4 30 Calling for the files of Correspondence

Re—Subn as desired.

TSD 13/4

In certain portions of the Railway lands, the jurisdiction over which has been ceded to the British Govt, our Govt have constructed state Rys; as for instance the light Ry between Vizianagram & Visakhapatnam and light Ry Stn at Bangalore city. Who is to exercise jurisdn in such portions, as far as our Rys are concerned? If there are any refers in the C.B. on this question, they may kindly be putup.

(C.B.)

BNP
13/4

The printed correction slip in the matter are put up.

17/5/33 (Sd by Secretary)

Attached copy of the notn in the Gazettee Vol put up is sufficient for our purpose — Please get it typed & return the Gazettee - This makes the file complete.

Earl

BNP 17/5/33.

Typing Section for kindly putting up a typed copy of the not. 507-I Published at P. 88. Vol. VIII of the Gazettee of India.

11 APR. 1933 GENL. & REV. SEC.

D 2330

PP.

PP 89-20 (15)

to be kept along with this file as this is a rare pte

Serial No.

Sir,

I am directed to refer to your letter No. Rs. 108 dated 15.5.33 inviting reference to the issue of a notification of 6th Sept 1926 published at P. 35 of the printed Correspondence. A copy of the notification sought for is also not typed and put up. This may now be sent to the Govt. Advocate as desired in para 8 supra.

TSD 16/5

What was asked for was the papers leading to the construction of our Railways on the lands over which jurisdiction has been ceded, such as the Yelhanka Jevanapura portion of the B.C.I. Ry., the light Railways in Bangalore City etc. An examination into the correspondence is necessary to find out whether the question as to who is exercising jurisdiction in respect of our Railways in such lands, has been dealt with already.

The Govt Advocate wants also to know if any notification under sec 116 of the Mysore Ry Regn has been issued by our Govt.

Forwarded with compliments to the Secy to Govt, Railway Deptt for kindly furnishing the papers and the necessary information required.

B.O.
M Gopalrao
for General Secy to Govt
19.5.33

G.O.No. P 6432 dated 19/5/33

Railway Secretariat Government of Mysore NOTE—Current Side 22 MAY 1933

WD 0246 -GPB—15,000—22-8-32

Serial No.

Returned, with compliments, to the General Secretary to the Government of Mysore.

The Bangalore-Chickballapur Light Railway portion between Yelahanka and Bangalore City is constructed on Land belonging to Mysore State Railway (Bangalore-Harihar inclusive of Bangalore City Station and Yesvantapur-Hindupur sections), jurisdiction over which has been ceded to the Government of India.

The Residency, however, while conveying sanction of Government of India to the retention by the Mysore Government of the jurisdiction over the Kolar-Chickballapur Railway, has observed, that as the Bowringpet-Kolar, Kolar-Chickballapur and Bangalore-Chickballapur Railways virtually form one line, a cession of jurisdiction, should it hereafter prove necessary, will be required over the entire loop, Bowringpet to Bangalore.

From this, it would appear that the jurisdiction over the Light Railway portion between Yelahanka and Bangalore City rests with the Mysore Government.

The Light Railway station at Bangalore City is within the boundary of the Bangalore City Station.

No



WD 2353—GPB—7,000—12-4-30

Ry. F 4]

7

Railway Secretariat. | File No. of 193 .

Serial No.

No notification under section 116 of the Mysore Railway Regulation has so far been issued by the Railway Department.

4 0110 219
31/5/33

Secretary for Railways,
Government of Mysore.
31/5/33

4

Forwarded with Compliments to the Govt Advocate with reference to his note of 8th April 1933 :-
BO.
Boyyadas
for Secy to Govt
1/6/33

1 - JUNE 1933
No Law

P.B. No. P 6932
dt 1.6.1933

290
Law

GOVT. ADVOCATE'S OFFICE
BANGALORE.

P. No. 31/33-34
dt 2.6.33

7.110.0P32/m.no
1.6.no

Returned with compliments.

The point raised in this case is full of difficulties. There are no decisions on the point and the Notification of 1896 does not help us in the matter.

I have already expressed my view that we should, as far as possible, retain such jurisdiction in our hands. The offence committed is under the Mysore Railways Regulation which is not in force in the C. & M. Station, as by virtue of the notification of 1896, it is only the

GENERAL SECRETARY
4 SEP 1933
No Law.

NOTE—Contn. Sheet.

WD 2953—GPB—7,000—12-4-30

the laws in force in the C. &. M. Station that should be deemed to be in force in the Railway Area.

Regarding cases referred to by the Traffic Manager, i.e., where the offences will have been committed even before the Junction station is reached, the Mysore Courts will have jurisdiction to try the offender in the light of the decision in 11 Mysore Chief Court Reports, 107. According to this decision and those reported in 5 Bom. L. R., 873, and 25 Cal. 20, (Privy Council Case) the Railway Land is not British Indian - Territory. The difficulty arises only where the offence is committed between Yelahanka and Bangalore. The question ~~x~~ then would be whether the C.&.M. Station Magistrate could try an offence under the Mysore Railways Regulation. Ilbert, in his 'Government of India', ~~at~~ page 424 ~~x~~ opines referring to Hyderabad and relying on the Privy Council decision that the jurisdiction concerned must be limited to jurisdiction required for railway purposes. Panikkar is of the same opinion. See pages 80 and 103 of his book 'Relations of Indian States'. I doubt if the Privy Council decision is an authority for that position to its full extent. In 25 Cal. 20, the Judges only say that the offence in that case was not suggested to have been committed on the Railway or that it was in any way connected with the administration of the Railway. In the light of these observations it

may

Serial No.

may be argued that if the offence is committed in the - Railway area, the Railway Magistrate will have jurisdiction in such cases. It may also be noticed that the Indian Government are not prepared to construe the Privy Council decision in 25 Calcutta so broadly. (Page 3 and 5 of Section II of the Print Book "Correspondence and Notes regarding jurisdiction over Railway Lands in Mysore". It is also laid down in our Criminal Digest at page 9, ~~that by full jurisdiction is meant~~ that the Courts of the State have no jurisdiction over the lands included in the notification dated 6-2-1896. If the above extracts are strictly construed, such cases as are referred to above may have to be tried only by the Railway Magistrate. But, in his note dated the 30th May 1933, the Secretary to Government for Railways says that the jurisdiction over the Light Railway portion between Yalahanka and Bangalore City appears to rest with the Mysore Government. The letter from the Residency referred to by him does not expressly say so. If the offence be one under the Mysore Railways Regulation which cannot be deemed to be ~~a~~ in force in the Civil and Military Station, the jurisdiction to try such cases can strongly be contended to be with the Magistrates in - Mysore. Otherwise it would lead to anomalous results.

Supposing an act committed by a passenger in the Light Railway is an offence under the Mysore Railways - Regulation and not an offence under the British Enactment which is in force in the C. &. M. Station, he could not be prosecuted for that offence in the Railway Magistrate's Court.

Taking

NOTE—Contn. Sheet.

WD 70—GBPM—60,000—13-8-31

10

603 p 32

File No. of 193 . | General and Revenue Secretariat

Taking a converse case, supposing a passenger's conduct is not an offence under the Mysore Railways Regulation but only under the British Indian Enactment, then, can the passenger be convicted for an act he committed in the Mysore Railways when it is not an offence under the Regulation?

Moreover, the sections which refer to the right of the Railway officials to demand excess fare etc., all go to show that the power is retained in the Mysore Government and not made over to the British Indian authorities. I am, therefore, inclined to the view that the offences committed on the Mysore Railways must be tried by our Magistrates and it would not be desirable to have them tried by the Railway Magistrate in the Civil and Military Station.

GENERAL SECRETARY
5 SEP. 1933
No.

V. Rangaswamy Iyer
Government Advocate.
2-9-1933.

H.

A copy of the above opinion will be sent to the Agent, Mysore Rys.
Genl)
5/9/33

T Narasimha

Clerk of the Second Member of Council
6 SEP. 1933
No. 1333

6003

11

[App. F. III—2

General and Revenue Secretariat | File No. | of 193

| Serial No. | |
|---|---|
| | Dft put up for appl |
| | KD 9/9 |
| | Issue as revised DRP 9/9/93 |
| | Read correction thereafter |
| | To, The Govt. Ad. No. P. 1552 dt. 12.9.93 forwarding a Copy of the Govt. Ad's opinion in the matter. |
| B 13/9/93 | |

TYPING SECTION
9. SEP 93
G & I.C.V SECT

NOTE—Contn. Sheet

3082-33.2

T. 34 A.

MYSORE RAILWAYS

No. EF.28/32. TRAFFIC MANAGER'S OFFICE,

*Mysore*, November 26th 1932.

To

The General Secretary to the Government
of H.H.the Maharaja of Mysore, Legis 75-32-1
(Law Section), Bangalore.

GENERAL SECRETARIAT 28 NOV 32 No 800-B.

Through: The Agent, Mysore Railways, Mysore.

Sir,

I have the honour to inform you that very often passengers travelling with insufficient tickets or without tickets are detecte by the Travelling Ticket Examiners of this Railway before reaching the Junction stations of Bangalore City, Arsikere, Birur, Yesvantpur, Yelahanka, Chikjajur and Bowringpet. In many cases such cases are also detected by the M.& S.M.Railway ticket checking staff at these junctions. Such passengers are liable to be prosecuted under sectio 94 & 95 of the Mysore Railway Regulation or the corresponding sections 112 & 113 of the Indian Railway Act.

2. The Chief Trans.Supdt.& Traffic Manager, Madras, who was requested to arrange for the production of the offenders before th Magistrate having jurisdiction and for the recovery of the charges due to this Railway desires to be informed of the designation and location of the Magistrates having jurisdiction in each case. I understand that these offences are "continuing offences" and so th offence can be held as having been committed at any stage of the journey. If this view is correct, the passengers can, I believe, be produced before one of the Mysore Government Magistrates having jurisdiction over any portion of the journey performed by the passenger without a ticket or they can also be produced before the First Class Railway Magistrate of the C.& M.Station who has jurisdiction over the Railway line from Haribar to Bangalore City, Hindupur to Yesvantpur and Bangalore (Cantt.) Bisanattam as the offence can be held to have been committed at the joint stations over which the First Class Railway Magistrate of the C.& M.Station has jurisdiction. From the point of view of this Railway, as the M.& S.M. Railway have made special arrangements for the production of passengers before a Magistrate under sections 112 and 113 of th

Indian Railway Act, it will be more convenient to get the offending passengers prosecuted through the agency of that Railway. I shall be obliged if you will kindly let me know whether, when such passengers are handed over to the staff at Junction stations and the passengers fail to pay the fare and penalty due on demand by the Joint Station staff, it can be considered that an offence has been committed in an area over which the First Class Railway Magistrate, C.& M.Station can be considered as having jurisdiction.

I have the honour to be,

Sir,

Your most obedient servant,

Ag. Traffic Manager.

3

No. P 5366.

11th April 1933.
12

The

The Traffic Manager, Mysore.
Through the Agent, Mysore Railways.

With reference to your letter No.E.F. 28/32, dated 26th November 1932, soliciting legal opinion regarding the jurisdiction of the Civil and Military Station Magistrate to try offences committed on our Railways, I am directed to request you to send for reference the entire correspondence and the agreements, if any, entered into between the British Government and Mysore when our Railways were constructed within the Railway lands over which jurisdiction had been ceded. A copy of the notifications, if any, issued under section 116 of the Mysore Railway Regulation, may also be sent for information.

I have the honor to be,
Sir,
Your most obedient servant,

For General Secretary to Government.

TSD

TRM.2

Appendix F G—1]

SUBJECT .....

.....

.....

Section

File No.

Serial No.

*Diary No. of letter replied to* .....

No. P 5866.

To

The Traffic Manager.

Thro' the Agent Mys. Rys.

Sir,

With reference to your letter no. E9.20/32 dated 26th ult 1933 soliciting legal opinion regarding the ~~the matter of passes travelling without tickets~~ I am directed to request you to kindly send for reference the entire Correspondence, ~~dag~~ and if any entered into the agreements between the British Govt and Mysore when our Railways ~~our Railways~~ were Constructed ~~together with~~ the notifications (if any) issued under sec 116 ~~of the Mysore Railway Regulation 1894~~ ~~may kindly be sent for reference and return.~~

For information — I have en

Date of issue 12/4/33

Signed by Mr. N. R. J R

Jurisdiction of the C+OI Stn magistrate to try offences committed on our Railways

railway within the lands over which jurisdiction had been ceded — the copy of the notifications, if any, issued under sec 116 of the Mysore Ry Regn, may also be sent for information

List of enclosures.....

Copied by.....

Examined by.....

General and Revenue Secretariat

( )

*the* 193

18/10/33

for Chief See 4



11/4

6003 P 32

Ry. 21.

No. K.S. 108/Fl. _____

Encl. _____

CHIEF SECRETARIAT 3784 17 REVENUE BRANCH.

RAILWAY SECRETARIAT,

Mysore, 12th May 1939.

From

THE SECRETARY TO THE GOVERNMENT OF MYSORE FOR RAILWAYS,

MYSORE.

To

The General-Secretary
to Government, Bangalore.

Sir,

GENERAL SECRETARY 16 MAY 1939 No. 8

1715

Jurisdiction over Railway Lands in Mysore.

With reference to your letter addressed to the Traffic-Manager, Mysore Railways, on the above subject, I have the honour to invite reference to the Government of India Notification dated 6th February 1896 and the orders connected therewith, contained on page 35 of the printed correspondence regarding jurisdiction over Railway Lands in Mysore.

1715

I have the honour to be,
Sir,
Your most obedient servant,

Secretary for Railways,
Government of Mysore.

SAK.

Notification No.507-I, dated Fort William, 3rd January 1896 -

Part,'- The Gazette of India, February 8, 1896 (Page 85 )

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Whereas His Highness the Maharaja of Mysore has ceded to the British Government full jurisdiction within the lands in his territory (including the lands occupied as stations, out-buildings and for other railway purposes), which are occupied or may be hereafter occupied by the following lines of railway in the Mysore State, namely, (1) the Bangalore Branch of the Madras Railway; (2) the Mysore State Railway from ~~the~~ and inclusive of the Harihar Railway station to ~~the~~ and inclusive of the Bangalore Railway Station; (3) from ~~the~~ and inclusive of the Yeswanthpur Junction Railway Station to the frontier of the State on the Bangalore-Hindupur Section ~~section~~ of the Mysore State Railway; and (4) the Kolar Gold Fields Railway, in exercise of this jurisdiction and of the powers conferred by sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to issue the following orders

Part I.

All laws for the time being in force in the Civil and Military Station of Bangalore shall be deemed to be in force in the aforesaid lands: -

Provided that notwithstanding anything in the Code of Criminal Procedure (Act X of 1882) or the Police Act (V of 1861) or in any othe enactment for the time being in force, the Governor General in Council may confer on any police officer all or any of the powers conferred on or exercisable by or under the Code on any Magistrate, in regard to particular ~~class~~ case or to particular classes or particular classes of cases or to cases generally

Part II.

For the purposes of the exercise or criminal jurisdiction within the aforesaid lands, the Governor-General in Council is pleased to make the following arrangements: -

(1) There shall be a Railway Magistrate, who ~~shall~~ shall be the District Magistrate of the Civil and Military Station of Bangalore.

(2) The Railway Magistrate shall have the powers of a District Magistrate, as described in the Code of Criminal Procedure.

(3) There shall be a Superintendent of Railway Police who shall be such person as the Governor General in Council may from time to time appoint in that behalf.

(4) The Superintendent of Railway Police shall have the powers of a District Superintendent of Police as described in Act V of 1861, and the ordinary powers of a Magistrate of the first class with summary powers as described in the Code of Criminal Procedure.

(5) The Resident in Mysore shall have the powers of an Inspector General of Police of a Local Government, as described in Act V of 1861.

(6) The First Assistant to the Resident in Mysore shall have the powers of a Court of Session as described in Code of Criminal Procedure, in respect of all offences over which Magisterial jurisdiction is exercised by the Railway Magistrate or the Superintendent of Railway Police.

(7) The Resident in Mysore shall have the powers of a High Court, as described in the Code of Criminal Procedure in respect of all offences over which the jurisdiction of a Court of Session is exercised by the First Assistant to the Resident and for all purposes whatsoever connected with the administration of criminal justice.

(8) This part of this Notification applies to all proceedings except -

(a) Proceedings against European British Subjects, or persons jointly charged with European British subjects; and

(b) Proceedings pending at the date of this Notification which should be carried on as if this Notification had not been issued.

Part III.

For the purposes of the exercise of civil jurisdiction within the aforesaid lands, the Governor General in Council is pleased to make the following arrangements: -

(1) There shall be two courts of Small Causes - the first with jurisdiction in all suits cognizable under Act IX of 1887 when the amount or the value of the subject matter does not exceed five hundred rupees, and the second when the amount or value of the subject matter does not exceed fifty rupees.

(2) The District Judge of the Civil and Military Station of Bangalore shall be the Judge of the First Court, and the Superintendent of Railway Police shall be the Judge of the Second Court.

(3) There shall be a District Court having the powers of a District Court as defined in Section 2 of the Code of Civil Procedure, and with jurisdiction in all original suits, whatever be the amount or the value of the subject matter, and in all other cases in which jurisdiction is conferred on the District Court by any law for the time being in force in the aforesaid lands.

(4) The District Judge of the Civil and Military Station of Bangalore shall be the Judge of the District Court.

(5) Appeals shall lie subject to the provisions of the enactments forthe time being in force in the aforesaid lands, against the decrees and orders of the District Court to the Resident in Mysore, who shall exercise the powers of an Appellate Court as defined in the Code of Civil Procedure.

(6) Subject to the provisions of the said enactments the Resident in Mysore shall exercise the powers of a High Court for all purposes whatsoever connected with the administration of civil justice within the aforesaid lands.

Part IV.

5. The Notification by the Government of India in the Foreign Department, No.292-1 dated the 5th February 1883, is hereby cancelled.

---

" C O P Y "

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

*Dated, Bangalore,* 9th September 1933.

*No.* P/2592

*From* The General *Secretary to the Government of His Highness the Maharaja of Mysore.*

*To*

The Secretary to Government,
Mysore Railways, Mysore.

Sir,

With reference to the Traffic Manager's letter No. E.F. 28/32 dated 26th November 1932 soliciting legal -- opinion regarding the jurisdiction of Civil and Military Station Magistrate to try offences committed on our Railways, I am directed to forward herewith a copy of the -- Government Advocate's opinion in the matter. Your office papers sent with your Un-official No.219 dated 31st May 1933 are herewith returned.

I have the honor to be,

Sir,

Your most obedient servant,

For General Secretary to Govt.

c.n.

Appendix F G—1]

SUBJECT.....

.....

.....

Section Law

File No. 75-32-

Serial No. 2

*Diary No. of letter replied to*.....

No. P 1252/Enc 6

To Secy Govt
~~Agent~~ Rlys. Rys.

General and Revenue Secretariat

( )

*the* *193*

Sir,

Date of issue 12/9/33

Signed by J. M. Law

With reference to
The Traffic Manager's
~~Law~~ letter no. E 7. 18 pa. dated 26th
Nov 1932 soliciting legal opinion
re: the Jurisdiction of C & M.
Station magistrate to try offences
Committed on our ~~Registered~~ Railway
I am directed to forward
herewith a Copy of the Govt. Ad'ls
opinion in the matter ~~and~~
~~to request that necessary action~~
Your office papers sent with
Your d.o No. 219/31.5.33 are herewith
~~may kindly be taken accordingly~~
returned.

I have etc

List of enclosures.....

Copied by 11/9

IBD
9/9.

JDM
9.9.33 for Genl Secy

Examined by.....